

ORDINANCE NO. 27675

**AN ORDINANCE OF THE CITY OF SAN JOSE
SUSPENDING THE REQUIREMENTS OF CHAPTER 14.25
OF TITLE 14 OF THE SAN JOSE MUNICIPAL CODE FOR
SECONDARY UNITS PERMITTED UNDER THE CITY'S
SECONDARY UNITS PILOT PROGRAM RETROACTIVE
TO JANUARY 1, 2006 AND TO AUTHORIZE REFUNDS
OF THE PARK IMPACT FEES PAID TO THE CITY OF SAN
JOSE PURSUANT TO CHAPTER 14.25 UNDER THAT
PILOT PROGRAM**

WHEREAS, on November 15, 2005, the City Council approved Ordinance No. 27606 (the "Secondary Unit Ordinance") to establish a pilot program for the limited development of secondary residential units. The Secondary Unit Ordinance became effective on January 1, 2006; and

WHEREAS, the Secondary Unit Ordinance describes the parameters for approval of secondary residential units and requires that applicants for secondary residential unit permits shall be required to pay all applicable fees assessed to new development as such fees are set forth by City Council resolution; and

WHEREAS, the Administration advised the City Council in connection with the adoption of the Secondary Unit Ordinance that the Administration would return to the City Council with additional recommendations related to restructuring applicable fees in order to minimize those fees that would limit the development of potential affordable housing under the Secondary Unit Ordinance; and

WHEREAS, the secondary unit pilot program will terminate on the earlier of December 31, 2006 or the date on which the building permit for the 100th unit in the secondary unit pilot program is issued; and

WHEREAS, Chapter 14.25 of Title 14 of the San José Municipal Code provides that residential housing building permit applicants shall dedicate land, pay a park impact fee in lieu of dedication, or both, for neighborhood and community-serving park or recreation purposes in conformity with the conditions, provisions, standards and formulas contained in Chapter 14.25. Alternatively, an applicant may enter into a parkland agreement for the construction of neighborhood and community-serving park improvements in order to satisfy the applicant's parkland obligation; and

WHEREAS, the City Council wants to temporarily suspend the requirements of Chapter 14.25 for the duration of the secondary unit pilot program in order to facilitate participation in the pilot program for the purposes of evaluating the secondary units as an affordable housing option and developing data that can be used to assist the City Council in evaluating the impacts, if any, the pilot program may have with respect to the collection of park impact fees and other City resources; and

WHEREAS, on October 17, 2005, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b) (3) of the California Environmental Quality Act of 1970, as amended, under File No. PP05-196.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Notwithstanding the provisions of Ordinance No. 27606, the requirements of Chapter 14.25 of Title 14 of the San José Municipal Code shall be suspended for secondary unit building permits which are issued in accordance with the provisions of Ordinance No. 27606.

SECTION 2. This Ordinance shall be retroactive to January 1, 2006 and shall terminate on the earlier of December 31, 2006 or the date on which the building permit for the 100th unit in the secondary unit pilot program is issued, unless the City Council takes further action by ordinance to amend or repeal this Ordinance.

SECTION 3. Any secondary unit building permit applicant who paid park impact fees during the period between January 1, 2006 and the effective date of this Ordinance as required by Chapter 14.25 of Title 14 of the San José Municipal Code, is eligible for a refund of the park impact fees paid, if the applicant applies for a refund on a form provided by the Director of Planning, Building and Code Enforcement and demonstrates to the satisfaction of the Director of Planning, Building and Code Enforcement that building permit applicant is entitled to a refund. No refund shall be issued prior to the effective date of this Ordinance.

PASSED FOR PUBLICATION of title this 14th day of March, 2006, by the following vote:

AYES: CHAVEZ, CHIRCO, CORTESE, LeZOTTE, NGUYEN,
PYLE, REED, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: CAMPOS

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk